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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PRISCILLA BERNARDO,  
on behalf of Z.A.B.,

Plaintiff

vs.

MICHAEL J. ASTRUE,  
Commissioner of the Social  
Security Administration,

Defendant

Civil Action  
No. 11-cv-00870

**FILED**

APR 20 2012

MICHAEL E. KUNZ, Clerk  
By W. G. Gish Dep. Clerk

O R D E R

NOW, this 20th day of April, 2012, upon consideration of  
the following documents:

- (1) Decision of Administrative Law Judge Daniel L. Rubini dated April 28, 2009;
- (2) Plaintiff's Complaint filed February 4, 2011;
- (3) Defendant's Answer filed April 8, 2011;
- (4) Plaintiff's Brief and Statement of Issues in Support of Request for Review filed May 26, 2011;
- (5) Defendant's Response to Request for Review of Plaintiff, which response was filed on July 26, 2011;
- (6) Plaintiff's Reply to Defendant's Response to Request for Review by Plaintiff, which reply was filed on August 4, 2011; and
- (7) Report and Recommendation of United States Magistrate Judge Thomas J. Rueter filed December 21, 2011;

after a thorough review of the record in this matter; it

appearing that neither party filed objections to Magistrate Judge

4.24.12 e-mailed to: 1 S. Rollins  
2 A. Lynch  
3 E. Gish

Rueter's Report and Recommendation; it further appearing that Magistrate Judge Rueter's Report and Recommendation correctly determined the legal and factual issues presented in this case,

IT IS ORDERED that Magistrate Judge Rueter's Report and Recommendation is approved and adopted.

IT IS FURTHER ORDERED that plaintiff's request for review is granted.

IT IS FURTHER ORDERED that the decision of the Commissioner dated April 28, 2009 and affirmed by the Appeals Council on December 6, 2010 which denied child's Supplemental Security Income benefits to plaintiff Priscilla Bernardo on behalf of Z.A.B. is reversed.

IT IS FURTHER ORDERED that pursuant to sentence four of 42 U.S.C. § 405(g), this matter is remanded to the Commissioner for further proceedings consistent with Magistrate Judge Rueter's Report and Recommendation.<sup>1</sup>

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<sup>1</sup> Specifically, among the further proceedings recommended by Magistrate Judge Rueter and approved in this Order, which the Administrative Law Judge ("ALJ") shall complete are the following:

- (1) evaluate all of the evidence of record, properly assess plaintiff Z.A.B.'s limitations, conduct a proper sequential analysis, and specify the reasons for his April 28, 2009 Decision, including the following;
- (2) explain what weight, if any, was given to the evidence provided by the individuals in this case who were able to directly observe plaintiff's limitations on a daily basis. Specifically address the assessments provided by, and evaluate the reports from: plaintiff's kindergarten teacher Kathleen Nota, second grade

(Footnote 1 continued):

IT IS FURTHER ORDERED that the Clerk of Court mark this case closed for statistical purposes.

BY THE COURT:

  
James Knoll Gardner  
United States District Judge

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(Continuation of footnote 1):

- learning support teacher Lataisha Dickmedjian, and speech therapist Therese Wescott concerning plaintiff's functional limitations;
- (3) address all of the impairments found by Dr. Gerald A. Zimmerman, Ph.D., who conducted a consultative evaluation of plaintiff on August 11, 2007, including an evaluation of Dr. Zimmerman's diagnoses of Adjustment Disorder and Borderline Intellectual Functioning; and
- (4) consider how well plaintiff functions independently compared to other children who do not have impairments pursuant to social security regulations. See 20 C.F.R. § 416.924a(b)(3) and (5)

Accordingly, as recommended by Magistrate Judge Rueter's Report and Recommendation, this case is remanded to the Commissioner to allow the ALJ an opportunity to analyze all of the evidence in the record and to specify the reasons for his decisions.